

Message Text

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PAGE 01 STATE 075794
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TO AMCONSUL CAPE TOWN PRIORITY
INFO AMEMBASSY PRETORIA
AMCONSUL JOHANNESBURG
AMCONSUL DURBAN
USMISSION GENEVA
USMISSION USUN NEW YORK

C O N F I D E N T I A L STATE 075794

E.O. 11652: GDS

TAGS: PINS, PINT, SHUM, SF

SUBJECT: DECISION TO BAR USG OBSERVER FROM TERRORISM
TRIAL

REF: CAPE TOWN 574, PRETORIA 1637

1. DEPARTMENT AGREES WITH EMBASSY THAT THE DECISION
BY JUDGE CURLEWIS TO BAR AN AMERICAN DIPLOMATIC OBSERVER
FROM THE PAN AFRICANIST CONGRESS TERRORISM TRIAL IN
BETHAL CALLS FOR SOME RESPONSE ON OUR PART. WE WILL
PROBABLY WISH TO SEND A DIPLOMATIC NOTE EXPRESSING
CONCERN AT FURTHER EROSION OF RULE OF LAW AND BASIC HUMAN
RIGHTS AND WE MAY WISH TO ISSUE A STATEMENT ALONG THE
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 STATE 075794

LINES SUGGESTED IN CAPE TOWN 574. NO DOUBT EMBASSY
IS ALREADY EXPLORING THE POSSIBILITY OF A JOINT APPROACH
TO THE SAG WITH THE SWEDES AND OTHER MEMBERS OF THE
DIPLOMATIC CORPS.

2. BEFORE WE GO FURTHER ON OUR OWN WE BELIEVE IT
WOULD BE ADVISABLE TO ESTABLISH CERTAIN FACTS. SINCE

BALTIMORE WAS UNABLE TO WITNESS THE EXCHANGE THAT OCCURRED BETWEEN DEFENSE AND PROSECUTION ATTORNEYS BEFORE JUDGE CURLEWIS ON MARCH 16, WE SHOULD ASK THE

SAG FOR A COPY OF THE TRANSCRIPT. MOREOVER, EMBASSY SHOULD SEEK TO OBTAIN COPY OF FULL TEXT OF CURLEWIS' RULING AND SUPPORTING MEMO OF MARCH 20. IN VIEW USG CONCERN THESE MATTERS, IT WOULD SEEM THAT REQUEST FOR PRECISE TEXTS IS CERTAINLY NOT IMPROPER. IF WE ARE SUCCESSFUL IN OBTAINING TEXTS, WE WILL BE ON SURER BASIS FROM WHICH TO PROCEED ON DIPLOMATIC FRONT.

3. AT THE SAME TIME, WE SHOULD ASK DEFENSE TEAM WHETHER AN APPEAL LIES FROM CURLEWIS' RULING, AND WHETHER THEY PLAN TO APPEAL. WOULD ALSO VALUE TEAM'S VIEW ON PROPRIETY OF A BLANKET RULING FOR EN CAMERA PROCEEDINGS WHERE IT EXTENDS TO 168 WITNESSES. DOES DEFENSE CONTEMPLATE SEEKING TO HAVE CLOSING OF TRIAL RECONSIDERED FOR ALL OR SOME FUTURE WITNESSES SINCE FACTS COULD DIFFER GREATLY AMONG SO MANY WITNESSES?

4. LOS ANGELES TIMES MARCH 21 CARRIED ARTICLE BY JACK FOISIE CONCERNING BARRING OF U.S. DIPLOMAT FROM BETHAL TRIAL. DEPARTMENT HAS PREPARED FOLLOWING CONTINGENCY PRESS GUIDANCE FOR SPOKESMAN: BEGIN QUOTE ON MARCH 16 A DIPLOMATIC OBSERVER FROM THE AMERICAN EMBASSY IN CONFIDENTIAL

CONFIDENTIAL

PAGE 03 STATE 075794

PRETORIA AND A SIMILAR OBSERVER FROM THE SWEDISH EMBASSY WERE PREVENTED FROM ENTERING THE COURTROOM IN BETHAL, SOUTH AFRICA, WHERE 18 SOUTH AFRICANS ARE ON TRIAL FOR OFFENSES UNDER THE TERRORISM ACT. ON MARCH 20 THE COURT RULED THAT DIPLOMATS WOULD NOT BE ADMITTED TO OBSERVE THE TRIAL THROUGHOUT THE REMAINDER OF THE PROCEEDINGS, ALTHOUGH REPRESENTATIVES OF THE PRESS WOULD BE ADMITTED. WE ARE REVIEWING AND COLLECTING ALL THE FACTS CONCERNING THIS SURPRISING AND TROUBLING DEVELOPMENT AND SHALL CONSULT WITH THE SOUTH AFRICAN GOVERNMENT ABOUT IT. END QUOTE.

5. UNLESS EMBASSY BELIEVES IT INADVISABLE TO DO SO, EMBASSY IS REQUESTED TO REQUEST COPIES OF TRANSCRIPTS AND TEXTS PARA 2 AND SEE WHAT DEFENSE PLANS TO DO ABOUT APPEAL OR SEEKING RECONSIDERATION FOR FUTURE WITNESSES (PARA 3). PLEASE ADVISE.
VANCE

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